

HOUSE BILL 4088
By McDonald

AN ACT to amend Chapter 568 of the Private Acts of 1939; as amended by Chapter 107 of the Private Acts of 1981; and any other acts amendatory thereto, relative to the Charter of the City of Portland, Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 568 of the Private Acts of 1939 as amended by Chapter 107 of the Private Acts of 1981, and any other acts amendatory thereto, is amended in Article XII by deleting Section 2 in its entirety and by substituting instead the following:

Section 2.

(a) Regulation of Purchases. All purchases of equipment or materials in excess of five thousand dollars (\$5,000) shall be let to the lowest responsible bidder upon sealed bids, except in cases of emergency, caused by the break down or accident to some of the city property demanding immediate replacement, in which event the city may purchase said replacement without receiving bids.

(b) City purchase requirements. All purchases, leases or lease/purchase agreements, after the enactment of this charter revision by the City of Portland, Tennessee, shall be in conformity with the provisions hereof.

(c) Non-competitive purchases. Purchases not exceeding one thousand dollars (\$1,000) shall be determined to be purchases of a noncompetitive nature and no bids are required to be received for such purchases provided the amount of the purchase is within the budget category of the budget document of the city. Such purchases are authorized by purchase orders signed by the mayor or the city recorder.

(d) Purchases from \$1,000 to \$5,000. Purchases or leases from one thousand dollars (\$1,000) and not exceeding five thousand dollars (\$5,000), shall be made on a competitive bid basis. Bids shall be requested from at least two (2) suppliers of the goods or services to be purchased or leased; and these requests for bids shall be made by the mayor and/or city recorder, in the manner and form determined by the mayor to best facilitate the purchase. The purchase or lease under this section shall be authorized by written purchase order signed by the mayor and/or the city recorder. These bids shall be confirmed by letter to be filed with the purchase order and invoice. In all events, the purchase or lease shall be made in conformity with the budget document of the City of Portland and within the budget category allowing for the purchase or lease.

(e) Purchases in excess of \$5,000. Purchases or leases in excess of five thousand dollars (\$5,000) shall be publicly advertised in a newspaper of general circulation within Sumner County, Tennessee, for a period of not less than two (2) weeks, and by such other advertisement, if any, as is deemed appropriate concerning such purchase. The mayor and/or city recorder shall be responsible to see that such advertisement is properly made. Bids under this section shall be in writing and shall be received as sealed bids at the mayor's office at the city hall in Portland, Tennessee, to be received no later than the date and time specified in the advertisement for the bids.

Bids received under this section shall be opened by the mayor and/or city recorder at the time and place designated in the advertisement for the bids, and such bid opening shall be open to the public and to those persons or companies submitting bids. The departmental manager or other city official involved in the purchase or lease shall make a recommendation to the entire city council for approval of one (1) or more of the bids submitted or shall make a recommendation that all of the bids received be rejected and the purchase re-advertised. If a recommendation for purchase is made, the city official shall submit to the city council the appropriate resolution recommending the purchase

based upon one (1) or more of the bids submitted and shall submit the actual bids for inspection by the city council and the city council shall take action as it deems appropriate upon the resolutions submitted by the city official.

(f) City council committee oversight requirements. For all purchases or leases in excess of five thousand dollars (\$5,000), where competitive bids are to be received, the specifications for the purchase or lease shall be prepared by the departmental manager or other appropriate official of the city department involved, in consultation with the mayor and/or city recorder. And those specifications may be submitted to the appropriate committee of the city council for approval as to the specifications before advertising for bids is accomplished or before the purchase or lease is made. If the appropriate committee of the city council cannot consent to the specifications, the purchase request and the specifications therefore shall be brought before the city council for consideration and appropriate action.

(g) Single source and proprietary product purchases. Any goods or services which may not be procured by competitive means because of the existence of a single source of supply or because the products are of a proprietary nature shall be exempt from advertising and bidding. A record of all such sole source or proprietary purchases shall be made by the person or city council authorizing such purchase and shall specify the amount paid, the items purchased or leased and from whom the purchase or lease was made. The purchase or lease shall be reported to the city council as soon as possible.

(h) Emergency purchases. Purchases or leases for immediate delivery in actual emergencies arising from unforeseen causes shall be exempt from bidding and advertising. A record of any emergency purchase or lease shall be made by the person authorizing such emergency purchases or lease and shall specify the amount paid, the item purchased or leased, from whom the purchase or lease was made, and the nature of the emergency. A report of any

emergency purchase or lease shall be made to the city council at its next regularly scheduled meeting.

(i) Exceptions. No competitive bidding or public advertisement is required for purchases, leases or lease/purchases from any federal, state, or local governmental unit of secondhand articles or equipment, but all such purchases or leases shall be reported to the city council at its next regularly scheduled meeting if the amount is in excess of five thousand dollars (\$5,000). All such purchases, however, shall be within the budgetary constraints of the city budget document.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Portland. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Portland and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.